S.B. CIVIL WRIT PETITION NO.1455/2004

Smt. Gendi Bai & Ors. vs. Ramesh Chandra & Anr.

Date : 28.1.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. A.K. Acharya, for the petitioners.

Mr. Dinesh Mehta, for the respondents.

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Heard learned counsel for the parties.

The petitioners are aggrieved against the order dated 10.12.2003 by which the trial court dismissed their application under Section 45 of the Evidence Act.

It appears that the trial court after considering the facts of the case and in the light of the facts of the case did not allow the application of the petitioners for examination of the document by Expert. The petitioners can raise any objection against the said order in appeal in case any occasion arises for the petitioner to do so after the decision of the suit. Since the order has been passed by the trial court within its jurisdiction and on the basis of the facts of the case, therefore, this Court is not inclined to entertain this writ petition so as to interfere in the impugned order under Article 227 of the Constitution of India.

Accordingly, this writ petition having no merit is

hereby dismissed with a liberty to challenge the impugned order in appeal in case any occasion arises.

(PRAKASH TATIA), J.

S.Phophaliya